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Activities and amusements
at Camp Funston

Washington

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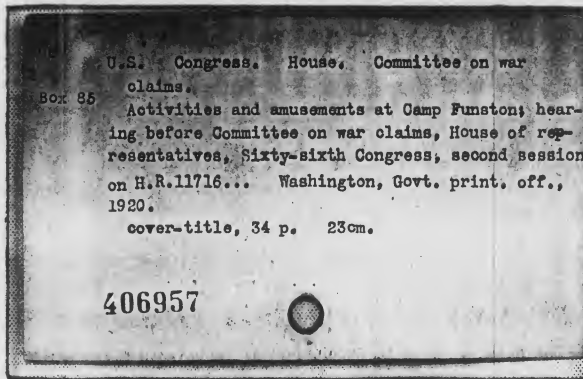
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ACTIVITIES AND AMUSEMENTS AT CAMP FUNSTON

HEARING .

BEFORE THE

COMMITTEE ON WAR CLAIMS

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS.

SECOND SESSION

ON

H. R. 11716

Printed for the use of the Committee on War Claims



WASHINGTON
GOVERNMENT PRINTING OFFICE
1920

COMMITTEE ON WAR CLAIMS.

HOUSE OF REPRESENTATIVES.

SIXTY-SIXTH CONGRESS.

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J. G. MONAHAN, Wisconsin.	DAVID J. O'CONNELL, New York.
ROBERT E. EVANS, Nebraska.	
DANIEL REED, New York.	

ACTIVITIES AND AMUSEMENTS AT CAMP FUNSTON.

COMMITTEE ON WAR CLAIMS,
HOUSE OF REPRESENTATIVES,

Wednesday, January 14, 1920.

The Committee met at 10.30 o'clock a. m., Hon. Benjamin K. Focht (chairman) presiding.

The CHAIRMAN. The committee will soon come to order. Mr. Strong, I assume you will enlighten the committee as to the real purpose of this gathering, because the meeting was called at your suggestion.

Mr. STRONG. At Camp Funston, Kans., while Gen. Leonard Wood, now present, was in command—Camp Funston was developed and made a training camp. He was the first commander, and he saw fit, for reasons which he will explain to you, to have a zone of camp activities placed in the camp, there being but two small cities, one probably 8 or 10 miles distant and the other 13 or 14 miles distant from this camp, where they had 50,000 to 75,000 soldiers. He made certain contracts, of which we have a copy here, and in which five-year leases were entered into, and people from several States were induced to build substantial buildings on the Government reservation under a 5-year lease, with a renewal clause, but with a 10-day forfeiture clause for the protection of the Government. They built this zone, a picture of which I have here. They made very elaborate and splendid buildings, installing their own heating and water plants, bringing the desired results to the camp, namely, the entertainment and care of the soldiers that were in training there.

After the war, changes were made in the command there and now notices have been served upon the people who owned these buildings, under the 10-day forfeiture clause, to vacate the buildings, and all of them have done so. The zone heating and water plant and some of these buildings are being partly used now by the Government. We have the general here who made the contracts, and the major who had charge of the building of the zone. They will tell this committee that the concessionaires entered upon this zone, expended their money, under a 5-year contract and have been notified at the end of two years to leave. Under the forfeiture clause of the contract they must leave their buildings and their property, as it is on Government ground, and they are asking for an adjustment of their claims, for their losses. The Government has taken possession of their buildings now and are using part of them. These claims have been submitted to the War Department in several ways, and finally, after a conference with Secretary Baker, he suggested that a bill be introduced giving him authority to make settlement of the claims, and after a conference with him and on his suggestion H. R. 11716 was introduced in the House by myself and in the Senate by Senator

Curtis; and Gen. Wood being in the city on other business it was thought advisable to ask him to come before the committee and make a statement regarding the matter, so that you gentlemen might be informed and assisted in making your report on the bill.

That is a short synopsis of the matter. Gen. Wood is here, Mr. Chairman, and I suggest that he be asked to make a statement.

The CHAIRMAN. We will be very glad to hear Gen. Wood.

STATEMENT OF MAJ. GEN. LEONARD WOOD, UNITED STATES ARMY.

Gen. WOOD. Would the committee like a short statement as to the facts? I am here as one of the general officers to consider Army reorganization. That is the purpose of my being in the city.

With reference to the zone at Camp Funston, I was ordered to command the cantonment at Camp Funston in September, I think, 1917. The cantonment was then well under way. On arriving the first thing that we had to consider was what we were to do in the way of providing amusement and places of recreation for the very large number of men that would come to Camp Funston for training. They would come there from Kansas, Missouri, Colorado, Arizona, New Mexico, Nebraska, and South Dakota—seven States. The only towns of any size near the camp were Junction City and Manhattan, a distance of approximately 9 miles and 14 miles, respectively.

It is exceedingly important when you bring a lot of citizens from their homes to a large cantonment for military training to do everything possible to provide recreation, proper places of assembly and amusement, restaurants, pool rooms, bathrooms, billiard rooms, theaters; and with this end in view we took up with the War Department in a regular and orderly manner the proposition to construct a group of buildings which would furnish these facilities to the cantonment, and authority was granted after considerable correspondence by the camp utilities division of the War Department. Is that it, Maj. Foster?

Maj. FOSTER. The committee on training-camp activities.

Gen. WOOD. The War Department committee on training-camp activities, and various contracts were entered into with various individuals to construct different buildings. The contracts provided for a lease for five years, terminable in case of military necessity. That was the chance which these builders took. They took up their part of the contract in good faith. They furnished suitable buildings; they provided suitable amusements, and they lived up to the standards required, and when the armistice came they found themselves in many instances still out of pocket. In some instances they have made good, have taken in enough money to reimburse themselves for the building and make a fair profit. In other cases they were still somewhat out of pocket, and we left them undisturbed to go on or leave as they liked. The cantonment was to be used for demobilization of a great many thousand men, and the men who were assembled for demobilization had the same need for the cantonment as the men who went there for training. That was the status when I left. It was up to these people to stay or to leave as they liked. It was an open proposition. Now what has taken place since then I don't

know in detail, more than that orders have been received, I understand, by a number of these concessionaires to leave, to vacate their buildings, and they have done so. Now, when we drew up the contracts, as you will note in reading the contract, it was a perfectly clean-cut, open-and-shut proposition. They came in under a five-year lease with the understanding that in case of military necessity we could terminate the lease at will; and understanding also that in case of any violation of the contract we would terminate the lease immediately. They were also required to maintain certain standards of sanitation.

For instance, the theatrical organizations were to present certain standard plays of decent and respectable type—moral type. To-day these people are presenting claims, I understand, to you gentlemen, based, I suppose, upon equity, that they should have been left there to have lived out the contract. If they chose to remain, it was their privilege to remain; that they violated none of the agreements and that there is no military necessity for their leaving, and so far as I know that is the status of their appeal to you.

Now in making these contracts, a great many of these people—I couldn't give you the names, because there are so many and we were so busy with the training of troops that I designated an officer as legal adviser to enter into these contracts, following the general lines laid down in our agreement with the War Department. Mr. Jenks here was one of them. I believe there are others asking, "Well, are we liable to be turned out?" And they were always told very frankly, "There is no reason in the world to suppose that you will be turned out until your contract is terminated, if you live up to these conditions, unless some urgent military necessity arises, which is provided for and covered by the contract." Now they are being turned out, and in fairness to them—in justice to them, rather—it is only fair that I should state that there was that general understanding, not an obligation, but they came up and said, "Well, here is the contract running for five years and we are not liable to be arbitrarily turned out?" I have always said, "Well, gentlemen, under the terms of the contract you can't be turned out and won't be if you live up to the terms of the contract, unless there is some military necessity which we don't foresee at present." That is all there is to it. Now they are coming to you with the claim for reimbursement for certain of the buildings.

It may be interesting to know that these gentlemen paid into the camp fund a certain percentage of their receipts, these moneys to be expended for the entertainment, amusement, and betterment of the conditions surrounding the men. After a time we remitted—the remission, I think, was after the armistice, when the war appeared to be about to terminate—we remitted—which we had power to do—that percentage of their receipts, knowing that many of them had actually not taken in as much money as the buildings cost them. That is a matter of record in the camp. That is entirely within our jurisdiction to do that. And to-day they find themselves in that condition, maintaining that they should have been allowed to go on and to leave the camp at their own option, but the military authorities for some reason unknown to me—I have been separated from the camp now since early last spring—for some reason unknown to me have ordered them out. The zone performed, perhaps, the

most important function that a group of buildings of that kind performed anywhere in the Army. You would see down there some nights 25,000 to 30,000 men. We had theaters in which we could seat in the neighborhood of 14,000 men at one sitting—between twelve and fourteen thousand, according to whether they were crowded or only comfortably filled; we had very large restaurants; we had very large pool rooms, I think the largest in the United States; the largest barber shop. We had places where men could go and meet and have a good dinner, and it was a little city within the camp and it was in every way successful, in every way beneficial. We put through that camp probably first and last probably a couple of hundred thousand men, and it served to keep the men in camp and to aid materially in the training and efficiency of the men. It made them contented and interested in their work.

Now, that, gentlemen, is the whole story. It is just a question, as I see it, as to whether any unfairness has been committed, whether or not they should have been allowed to go on as long as they saw fit to remain in the zone, and to have left whenever they thought there was no longer any use of staying.

Mr. CLARK. Can you give us the reason for this cancellation?

Gen. WOOD. I can not. I know of no reason at all. I have asked—I think I saw Mr. Jenks; he is about the only one I have seen—Mr. Jenks and Mrs. Kirk, and there is no reason known. They came to appeal to me, and I told them my connection had been severed, but that I should be very glad to make a statement of facts to the War Department, or to any other competent body.

Mr. CLARK. Who made the order?

Gen. WOOD. The immediate order was issued by Gen. McClughlin, who is the camp commander. I think that is merely an incident. He probably received his orders from Washington. I don't think he had any animus in the matter. I think he was simply acting under orders, though I don't speak with any knowledge.

Mr. O'CONNELL. General, have you any idea how much is involved in this case?

Gen. WOOD. No; I can't give you that. A good many of these concessionaires made good and made money, and some of them who had the larger buildings did not; but I should think that the majority—with your permission, sir, I will ask Maj. Foster, who was in charge of that, about what proportion of the concessionaires made good?

Maj. FOSTER. As near as I could find, only two or three concessionaires had not paid out. That was the bank and the theater.

Gen. WOOD. That is, made money?

Maj. FOSTER. Yes, sir.

Gen. WOOD. That was my impression, that nearly all of them had gotten their money back and something more.

Mr. CLARK. Just one other question, General. Are there any men there now?

Gen. WOOD. Yes; it is one of our permanent cantonments.

Mr. CLARK. How many men would you say are there?

Gen. WOOD. I should say now it is down to two or three thousand. That is just a guess; but that is my impression.

Mr. CLARK. Are the conditions such as to pay these people to keep running?

Gen. WOOD. Probably not; but when they entered into the contract it was understood that it was for the duration of the war, and the duration of the war was purely a guess. It looked then as though it would run three or four years, and they were entirely at liberty to remain as long as they wanted to. If they had been left alone—they have their own independent heating and lighting plant, which was a burden upon the concessionaires, and they could only have afforded to remain when there was enough men to pay expenses, but forcing them out makes a good many of them feel that the possible chance for good business in the future had been lost. In case, for instance, we should have some system of universal training Funston would be one of our big Middle West training centers, and these concessions would run on for several years, and possibly be approved for extension.

Mr. EVANS. General, if I may, I would like to ask, what would you include in the phrase "military necessity" or "urgent military necessity" as used by you in your statement?

Gen. WOOD. That is a very good question, I think, sir. I should say the requirement, for instance, of all the land in that vicinity to quarter additional troops coming in.

Mr. EVANS. Then you don't consider that anything that has occurred could be denominated military necessity?

Gen. WOOD. I know absolutely nothing that could be considered a military necessity.

Mr. EVANS. Coming now to your statement as to what in equity would be just, do I gather from that that what you think will be just will be what these persons might earn or receive if they were permitted to run on under the conditions now present?

Gen. WOOD. Well, I should think it would be equitable and just to ascertain just what they have received, what their buildings cost, what they have received up to date, and then consider the claim for enough money to make good, plus the interest on their investment. I think that would be an equitable settlement of the whole thing.

Mr. EVANS. And if they had made or received what would fully compensate them and give them a reasonable remuneration for their time, such persons would not really be entitled to anything additional?

Gen. WOOD. No; I should say not; unless you want to bring in the possibility of the camp going on as a great training center, and that we know nothing of: that is a matter of Government policy to be determined; but I think the possibility of an increased earning would have to be taken into consideration by you gentlemen. That would be the only other factor.

Mr. EVANS. One other question, General. At the time you made these contracts neither you as the representative of the Government or these men who were putting in their money had in contemplation a future training camp, did they?

Gen. WOOD. No; we know nothing of that.

Mr. EVANS. It was simply a war activity?

Gen. WOOD. War was all we had in sight, the war and its sequence, the demobilization, getting the men home.

The CHAIRMAN. General, as having probably a very potential influence on some of the members of the committee, I think it would be of value to have your opinion as to the fulfillment of the purpose of

helpfulness in the organization of the Army, of having concentrated there these various facilities, and whether this camp worked out to the benefit of the organization of the Army.

Gen. WOOD. It has been of the very greatest benefit all during the war, and it would be of great benefit and convenience in case we should have training camps in the future. It is a little city within a great training camp, a place where men can go for recreation, for rest, for amusement after drill hours. It has been very valuable, and if Funston should be continued as a training center it would be extremely valuable under the conditions to come. I think the conditions of efficiency in the division and the general good conduct of the men there speaks volumes for the project.

Mr. MOONEY. Approximately when was this order of eviction issued?

Gen. WOOD. I will have to ask Mr. Foster.

Mr. FOSTER. They were all to get out on January 1.

Gen. WOOD. What was the date of the order?

Mr. FOSTER. It is November 21.

Gen. WOOD. I left there about last March.

Mr. FOSTER. They have all vacated now.

Mr. MOONEY. Approximately how many men were there there at the time they did vacate?

Gen. WOOD. I should say 3,000 men.

Mr. MOONEY. Then, since it is the larger concerns that have not paid, those businesses could not have been operated at a profit at the time they left, could they?

Gen. WOOD. No.

Mr. WILSON. General, were these contracts and the plan of the concessions peculiar to this camp or cantonment?

Gen. WOOD. I did not get that.

Mr. WILSON. Was this form of contract or this plan of providing concessions for the cantonment peculiar to this cantonment?

Gen. WOOD. I could not say, sir. I think it was the largest effort of the kind made during the war, because of our peculiar conditions. But there might be other efforts in the same direction in other camps.

Mr. KLECZKA. Have leases in other camps been canceled?

Gen. WOOD. I don't know, sir. I have been entirely out of touch with that. These gentlemen only came to me very recently and wanted me to come and tell you original rather than existing conditions.

Mr. STRONG. General, it has been stated that if it had not been for this zone within this camp, only a very small per cent of the men could, as a military proposition, be granted leave to go to these towns so far distant, and you might give your opinion on that.

Gen. WOOD. We could have allowed them to go to town, but the zone had a tremendous steadying effect upon the moral conduct in the adjacent towns, because we always had the opportunity of cutting off permits to go to town if things got loose there. We kept a very high moral standard in the camp and allowed no doubtful people in or about it. But the amusements were so well conducted, the place was so popular that the men all stayed—the great bulk of them stayed in camp. In fact, there was so much of that sort of thing that the towns of Manhattan and Junction City rather resented the zone. They felt that we were interfering with the opportunity for legitimate

business. But we always gave our men—all the men were excused from duty at Saturday noon, and there was no military duty from noon on Saturday until Monday morning at reveille, and we followed uniformly the custom of giving 10 per cent of our men furloughs to go to their homes, allowing them to leave at the conclusion of work on Friday, if they could get back on Monday morning, and on holidays we gave 25 per cent of them permission to go, the idea being to keep the men as closely as possible in touch with their homes.

On Saturday afternoon and Sunday the zone was open to their friends, and I remember one day our military police counted something over 4,700 different automobiles parked about the camp at one time. It was a tremendous steadying influence upon the men, and they could take their friends down to these restaurants and give them a good meal. Then we had just outside of the strictly military area of the camp proper—the reservation was 30 square miles—we had outside there hostess houses close around, rest houses, etc., to which the women, the families of soldiers could come and get a meal, get a bed if necessary, and wait until they could see their boys, their husbands, or sweethearts, whoever they were, after drill hours. The whole idea was to make them contented and happy, because they had hell ahead of them and we wanted them to start off well.

Mr. O'CONNELL. You wanted them to have Paradise at the start?

Gen. WOOD. As much as we could during the training season. When fellows come into the training camp they are undergoing a psychological as well as a biological change. They are getting all of these antityphoid and antienteric injections. A great many of those fellows never slept off the farm before; they were all from that great farming and ranching area, and we wanted to give them something to do to keep away homesickness, despondency, etc. That was the purpose of the zone, and it had a wonderfully good effect. It was the best thing, I think, that we did.

Mr. EVANS. Just another question, General: It is your experience, or is your experience or information such that you could tell us of what value to that camp at the present time these buildings are? Suppose that we simply wish to fix a value with the uncertainties we have in mind, what value would we fix?

Gen. WOOD. Well, I will do the best I can. It is contingent upon so many things—if some system of training the youth of the country is adopted, those buildings would be invaluable for the purposes. They will have equal value for that that they had in the training of our troops during the war. If we don't have universal service and this camp is kept as a great center for one or more divisions of our permanent Army, many of these buildings will be useful for lecture halls, storerooms, but not as valuable as they would be for purposes for which they were built. I should say they would perhaps have for military purposes 30 per cent of the value.

Mr. EVANS. Of the cost?

Gen. WOOD. Of the value they would have for the other kind of work. Theaters, for instance, are built with an incline and you would have to reconstruct them for storage.

Mr. EVANS. Now, under this contract—you can perhaps give us the information without looking it up—the land is owned by the Government?

Gen. WOOD. Absolutely.

Mr. EVANS. And the buildings were erected by Government permission and can not be removed?

Gen. WOOD. And are, ipso facto, the property of the Government from the moment they are erected under the law.

Mr. EVANS. And the expense of erecting these buildings was borne entirely by the persons who took these contracts?

Gen. WOOD. Yes, absolutely.

Mr. CLARK. Are they expensive buildings or cheap buildings?

Gen. WOOD. They are rather cheap temporary buildings. They will be good for 10 or 15 years, probably, with care. They are wooden buildings, mostly, on concrete piers, fairly well built, ruberoid or asbestoid roofing, and with good care they ought to last 10 or 15 years.

Mr. CLARK. General, could you tell us—we could get that, I suppose from the War Department, but from what particular portion of it would we get the order issued for vacation?

Gen. WOOD. I think you should call on the Secretary of War direct. He could give you the information.

Mr. CLARK. You haven't had that?

The CHAIRMAN. No; we just called this meeting hurriedly in order to hear the general, as he is going away.

Gen. WOOD. I think Mr. Strong has been through the camp.

Mr. STRONG. Oh, yes. There is a picture of the zone [showing].

Mr. O'CONNELL. You are not in a position to state whether the camp will be retained?

Gen. WOOD. I think the camp will be retained as one of our divisional centers.

There is one thing I did not speak of. The buildings, as Maj. Foster reminds me, are stuccoed, covered with concrete.

Mr. CLARK. How large a tract of land does the Government own there?

Gen. WOOD. About 20,000 acres; roughly 30 square miles. We have a large permanent military post there, and the national school of equitation. It is a very fine, a very useful reservation, one of the best we have got in the country. It is right at the geographical center of the United States east and west.

Mr. CLARK. What is the nearest town of any size?

Gen. WOOD. Kansas City is the nearest big city. That is about one hundred and thirty odd miles in a straight line, as I remember it; about 154 miles by road; and then these two neighboring towns—Manhattan is probably six or eight thousand people, 12 or 14 miles on one side, and Junction City with about 8,000 people, I should say, in the other direction.

It is just a case, gentlemen, of fair play. That is all there is to it. Legally the thing is as clean as a hound's tooth.

Mr. CLARK. I think you stated that you knew of no estimate as to about what would be the probable cost to the Government if they built that zone?

Gen. WOOD. What it cost the Government?

Mr. CLARK. I think you stated there had been no calculation as to the probable cost to the Government in case this bill passes?

Gen. WOOD. No; there hasn't been any. I have just given you as full a statement as possible that most of these people have gotten their money back and their equity is only in this: That having lived

up to their part of the agreement, shouldn't they have been allowed to continue for the full five years, and have a chance at possible profits? That is all the equity they have got. The other fellows who haven't gotten their money back, have got a little more claim on the ground that if they had been allowed to remain they might possibly have gotten out enough money to break even. My recommendation concerning those people is this: That their claims should be figured on a basis of what still remains to be taken in in order to break even and a fair interest on that amount from the time of the investment. The buildings are the property of the Government and will be very useful if we have a training camp there, or if a divisional center is maintained there, for the very purposes for which they are built. Of course, they will be in excess of the needs of a camp of that sort. You see we have stores there of every description. You could buy anything from an automobile to a Swiss watch almost—men's uniform clothing stores—it was really a little town in itself.

Mr. EVANS. General, having in mind the time that it takes to organize a military training center as it would be organized in times of peace, with the matter in its unfinished state and undetermined state in Congress, how long do you think it would probably be, even if favorable action were taken, before there would be a military camp at Funston in full operation?

Gen. WOOD. Well, there will be a military camp in full operation to the extent of about 28,000 to 30,000 men as soon as we can recruit the division which is now stationed there. So that right there, you have got a camp population which would swing from—well, say 22,000 to 30,000 men, according to the strength of the division. That is one of the designated permanent divisions to be maintained, so far as the War Department can maintain it in the United States.

Mr. EVANS. That has been determined upon?

Gen. WOOD. That has been determined already, so far as the War Department has authority to determine it. Of course ultimate action will depend upon the action of Congress in approving the policy which the Department lays down.

Mr. EVANS. And how many men were there on the average during the war training period?

Gen. WOOD. I should say in the neighborhood of fifty thousand. Sometimes it ran up to seventy thousand, because the men from Fort Reilly, three miles to the west, came to Funston, the enlisted men, rather than to go to the neighboring towns. Sometimes we were feeding in the cantonment close to seventy thousand men. I should say the average was about fifty thousand.

Mr. EVANS. Then your opinion is that irrespective of what may be done as to universal military training, there will in all probability be a population within the camp of approaching at least twenty thousand?

Gen. WOOD. Yes, rather more than less, I should say.

Mr. EVANS. What is your opinion as to whether or not, with that population there, these amusement places or the different things that are in the zone and involved in this bill—what is your opinion as to whether or not they would pay expenses with that population?

Gen. WOOD. I doubt their paying expenses. A great many of them would drop out automatically. Those that held on would probably find themselves eventually in a position to receive a reasonable income on their investment.

Mr. EVANS. And those that would drop out automatically, as I understand you, are the ones with larger buildings, such as theaters?

Gen. WOOD. Some of the big theaters would drop out automatically. Probably one theater would be maintained.

Mr. KLECZKA. Then if this camp would be used for military training, the Government would be in a position to lease these buildings to other concessionaires?

Gen. WOOD. Yes, to other concessionaires. Now for instance, if we have this training for student bodies and high schools and universities, it is quite possible that through that section they may be mobilized at Funston, where a theater would be very useful for the youngsters in the evening for illustrations, lectures and amusements.

Mr. WILSON. The thing I am interested in, General—you said you didn't have that—is the text of the order canceling these contracts.

Gen. WOOD. I haven't seen that. These gentlemen simply wrote me saying such an order had been issued and could I help them in any way.

Mr. WILSON. And the other thing I am interested in is the reason set forth in the cancellation of the contract by the War Department.

Gen. WOOD. I don't think any reasons were given. I think it was just a straight order to vacate—though I am not sure.

Mr. WILSON. Would there be any military reason why these concessionaires could not continue in possession for the five-year term?

Gen. WOOD. I know of none, although I am not all wise as to that subject. There may be something that I don't know about, but so far as I know there is none.

Mr. EVANS. With respect to what the Congressman has just asked you, the information given to the committee was that the fuel was stopped, or the use of fuel, and of course that prevented the running of the theater and places of that kind; and that in the contract there is a provision that if they do not continue, they forfeit the right, and that upon those conditions and these facts the officer commanding assumed to forfeit the right. Now as you understand it that would not at all constitute a military necessity?

Gen. WOOD. No; I should say not, because the buildings could stand there idle, to be opened up again in case of need. I don't think it would be fair to assume that all of the three or four theaters, which ever there may be there now, should be required to run at all times.

Mr. EVANS. That was your information, was it not, Mr. Strong?

Mr. STRONG. What was that?

Mr. EVANS. That one of the reasons for forfeiting these contracts was because they did not run continuously, and they were deprived of fuel so that they could not run.

Mr. STRONG. I will say that in the talk I had with Gen. McLaughlin at Funston in December, he said that he wanted to get the concessionaires off of the zone; he wanted to get rid of them. He thought more permanent buildings should be constructed and he wanted to get rid of these and he on that day stopped the operation of the heating plant because of the scarcity of coal throughout the State, and of course the stopping of the heating plant forced everybody

out, but he had already given orders for a considerable number of them to leave; he wanted to get them all out by the 1st of February.

Mr. EVANS. Didn't he give as the reasons because they hadn't been running?

Mr. STRONG. No; he did not. He said some of them had stopped and some had not.

Mr. O'CONNELL. Did he give any reason at all, Mr. Strong?

Mr. STRONG. No; only he thought the zone should be gotten off the reservation.

Gen. WOOD. They had to pay for their own heating and their own lighting.

Mr. BOIES of Iowa. Might I be permitted to say a word here? I think there is some misapprehension with reference to the claim of some of the individuals. I have had some conversation with them and have had some correspondence with Gen. McLaughlin, and I gather from his letter that he simply canceled the contract upon the technical wording of it; whereas I understand it was agreed that in order to get a million and a half dollars into this business it was not presumed that the contract would be canceled unless they violated some rules of the camp.

Now with reference to the claim that the people make, those with whom I talked do not anticipate any prospective profits; they simply feel, those that did not receive enough money to pay out, that if they get their money back with a reasonable amount of interest that will be satisfactory; in addition, this heating plant that they put in, costing over \$100,000, which the War Department has taken possession of and is now using, and I understand from my conversation with some of these gentlemen that between \$100,000 and \$200,000 would pay all the claims that all the men make against the Government.

Mr. CLARK. Who built the heating plant?

Mr. BOIES. The concessionaires.

Mr. CLARK. At their own expense?

Gen. WOOD. They built it at their own expense. We gave them no assistance, financial or material or anything else.

Mr. BOIES. That cost over \$100,000.

Mr. CLARK. The Government ought to have a heating plant of its own.

Gen. WOOD. We have those heating plants in groups. We have what is called a unit, heating so many buildings, one here and one there.

Mr. CLARK. The Government doesn't use this heating plant that the concessionaires built, does it?

Mr. BOIES. Not in connection with this camp; only as they occupy these buildings.

Mr. O'CONNELL. Then it is your idea that the total amount involved, covered by this bill would be approximately \$200,000?

Mr. BOIES. Less than \$200,000.

Mr. CLARK. But is the Government using any of these buildings now that the concessionaires built?

Mr. BOIES. Yes; they are using the heating plant.

Mr. CLARK. For what purpose are they using the buildings?

Gen. WOOD. You see, sir, the buildings automatically belong to the Government.

Mr. CLARK. I was considering what purpose they put them to.

Gen. WOOD. I don't know, sir.

Mr. STRONG. I will say to you, gentlemen, that Mr. Foster, who was a major during the war and who was the officer to whom Gen. Wood refers as having been given charge of this zone, is here, and he will follow Gen. Wood and probably can give you the information you are seeking.

Gen. WOOD. He can give you the details. I was putting my mind to the work of training the men at that time, trying to get them ready for overseas. Of course I am responsible, there is no ducking that at all, but he had to carry out under my general approval this work, and that was backed by the approval of the War Department. It is just a matter of what is fair, that is all.

The CHAIRMAN. General, before you go, the question might turn rather upon the matter of reimbursement than of purchase for future value or use, and I would therefore like to have the record quite clear on that. You gave a while ago a good answer, a comprehensive answer, to a question that I asked, but I would like to have you say whether you regard this enterprise as something beyond the ordinary profit making midway pliancance feature that you find about a great exposition or gathering of people; it had greater value than that, I understand, and I believe from what you say that you would recommend the duplication of this character of entertainment if such a thing were to occur again as the mobilization of troops for training?

Gen. WOOD. If I were going to go through the war work again and control one or more cantonments, I should try to have built in each and every one, one of these amusement centers, because we gave to the men everything that a town could give, and gave it under a control which meant good conduct, good sanitation, morality, decency. For instance, all the food that was sold and used in these cantonments was under Government supervision. Ice cream, butter, milk, eggs, and all those things came in and were inspected by our inspectors, and we had no sick men from it. We had hardly a case of enteric in that entire camp. In other words, we gave men amusement under conditions which we absolutely controlled. It was almost ideal.

The CHAIRMAN. Are there any other questions you would like to ask the General?

Mr. REED of West Virginia. I was interested along that line—so far as it is possible to control conditions there was nothing permitted in the way of amusement or otherwise, except that which would tend toward the uplift of the men?

Gen. WOOD. Nothing. Whenever a questionable performance—and one or two did come during the year—I think I called up Mr. Jenks once—isn't that so, Mr. Jenks?

Mr. JENKS. Yes.

Gen. WOOD. In fact, we told him he couldn't go on with a certain performance, which would have been all right in a third rate theater in a city, and Mr. Jenks very promptly apologized and took it off. You know we had to take on these theatrical companies—they were all indorsed, as I remember it, by the War Department, but there were certain types of companies which felt that to appeal to a soldier they must be a bit vulgar, and they didn't know that you never can

talk over the head of a soldier; the higher you run your morality and the higher your ideals, the better the response; and when we heard that there was something going on that we did not like the tone of, we generally heard it from the men themselves. In one case I remember two men came up to my headquarters and said, "There is a rotten play on, General, down here. We don't think it is a good, decent thing for these young fellows." Well, it was a suggestive sort, a little bit of hootchy-kootchy business, I never saw it, but I sent my inspector right down to see the performance, and he suspended it. It would have gone in any city in the United States, probably, without question.

The CHAIRMAN. Are there any other questions to be asked of the general before he goes? Mr. Strong, do you have anything further to say in the case?

Mr. STRONG. No; except to thank the general for coming.

The CHAIRMAN. If there are no more questions to be asked, I will certainly say on behalf of the committee that we are more than delighted to have had you here, General, and to have had the very clear, lucid, comprehensive, and satisfactory presentation that you have made, and I will state that your statement has been very illuminating.

Gen. WOOD. I have told you all I know, gentlemen.

Mr. STRONG. I want to say, in the adjustment of these claims Secretary Baker suggested to Senator Curtis that he would like to arrange an adjustment, and if he were given authority by the act of Congress he would do so, so this bill I am informed was presented to him and had his approval; it allows him to make the investigation, giving him authority to make adjustment of these claims.

Mr. CLARK. The committee ought to have some idea about what it would cost.

Mr. O'CONNELL. It is going to be rather difficult to defend on the floor of the House an item like that.

Mr. CLARK. Suppose we hear Mr. Foster.

STATEMENT OF MR. DICK B. FOSTER, 804 GRAND AVENUE TEMPLE, KANSAS CITY, MO.

Mr. STRONG. Gentlemen, this is Mr. Dick B. Foster, who was the major who had charge of the camp activities during the war at this camp.

The CHAIRMAN. I presume Mr. Foster wishes to make a statement. We will hear from him and then questions will be asked afterwards.

Mr. STRONG. I would like to say, gentlemen, that Maj. Foster was engaged as an architect and builder before the war.

Mr. FOSTER. I was appointed chief of the department of camp activities and amusements at Funston in September, 1917, by Gen. Wood. Gen. Wood outlined the plan to me and asked me if I thought it could be done. I told him yes, and he gave me instructions to build something that would be a little different from the cold and bleak appearance of the cantonment buildings; so I designed the entire plan and made a water-color perspective of it before it was built; and then I went outside for outside capital to finish all of these buildings, as our orders and authority from the War Department ended with the clause: "Providing it costs the Government no money" to build them.

In summing it up, I found it was going to cost between a million and a million and a half dollars to make the thing complete. We had no trouble with the small concessionaire where, for instance, in the Arcade Building, in which I had planned 512 stalls 12 by 12 feet and sold them to small concessionaries, they paying their pro rata share of the whole for the amount of space they took; but when it came to the larger buildings, such as the pool hall, the theaters, I found some trouble in financing them, and the stumbling block was this revocable clause in the contract. I went to the Chief of Staff and told him the trouble I was having, and he sent me to the judge advocate, Col. Packer, who gave me a complete interpretation of this clause, and I told these gentlemen who were putting their money into it that this clause was put in all contracts for buildings built on Government reservations and assured them that there would be no cancellation of their contracts unless they committed an overt act, or for military necessity. They asked me then pretty generally what an overt act meant, and I explained that to them as near as I could, in case they failed to carry out the orders of the commanding general in regard to sanitation of the camp, or if they tried to put on questionable shows, or if they brought questionable women into the camp, or if they sold liquor in the camp, and such things; and they asked me then about what military necessity meant, and I explained that to them, that in case the Government needed the space to build other buildings.

After those explanations I got the concessionaires to come in and put their money into it. I am quite sure none of the larger buildings would have gone in—I know it, in fact—without that interpretation. Then we could have built temporary buildings—I would like to correct the general a little bit on the duration of those buildings. The buildings were built so that they would readily be available for 50 years. The buildings are all strongly built and built just the same as I would build—I should judge they are built about on the same plan as your housing buildings here in Washington. I don't know what these stucco buildings have under them, but I have no metal lath in those buildings, no metal lath at all. Metal lath deteriorates and rots out; but I have a treated wood beveled lath, and that stucco is put on that.

As to the heating plant: I borrowed from a bank in Kansas City, a banker friend, \$100,000 on my note, to assure the erection of this heating plant, as I could not tell what the assessments would be to each concessionaire. So my department handled that and paid out the money that we borrowed, not the Government. The Government did not borrow on it; it was just an individual loan. Mr. William Hudding, of Kansas City, loaned me the money. Then I charged off to each concessionaire his pro rata share of the heating plant.

I told these concessionaires that that heating plant would cost about \$55,000. It cost \$105,000. For nine years previous to entering the Army I had never failed to let a contract on my estimate, but at the time of this estimate I didn't know that I was going to have to pay a man that handled a monkey wrench \$105 a week, but I had to pay steamfitters \$105 a week on this work. I discharged them several times, had several fights with them, and they would go right over to the Government work and get the money that I was refusing to pay them. That condition existed. We had started, and I will say frankly that these buildings cost, right straight through,

just double what the estimated cost was in September, 1917, because we did not anticipate—I was trying to keep up pretty close with my profession, but I did not anticipate such enormous costs of construction, so they cost us about double the amount that I told the concessionaires they would cost. However, the concessionaire made no complaint about that; he went ahead and did his part of the contract.

This whole thing to me is one that I can not think that the commanding general at Funston had any right under the agreement to summarily dismiss these men from the reservation, because we had assured them all the time that such a condition would not exist, and I went further and explained to them that the Government did not work a hardship on people; that it might make mistakes, but it would see that people were treated equitably and proper, and we could never have financed the proposition if we had not told them so.

Some of them, for instance, there were three different theatrical corporations who came to me and balked on the revocable clause, and when they put it up to their bankers to borrow money, the bankers said, "No; we won't take such a chance," and I begged Mr. Jenks, who built these theaters, to do it, because it had gotten right down, as I considered it, to my last chance to get them, and we thought we had to have them. We just thought the whole thing would be a failure without these theaters. The theaters were strongly built. The picture theater seated 1,800 without a post in it, with a clear truss span of 100 feet without a post in it, and these buildings are more of a permanent nature. The reason we did that was this: The cantonment itself—it was a psychological proposition—the cantonment or camp itself was cold, dark and very dreary, and I feared very much—and I happened to be a member of the American Society of Heating and Ventilating Engineers—I feared very much that we would be unable to heat the cantonment buildings, and it proved so afterwards. Those cantonment buildings were very cold on some days, and I went on the theory of building a complete warm spot in the cantonment, both from an aesthetic point of view and from a physical point of view, and that was the reason we stuccoed these buildings. That was the reason we built something more than a shed. The bank building, for instance, is just as nicely equipped as a bank you will see in the city of Washington, vaults complete and solid oak fixtures, oak trim throughout, and a permanent, strong building, costing about \$22,000.

Mr. WILSON. How did that affect the morale of the soldiers?

Mr. FOSTER. The bank?

Mr. WILSON. Yes, sir.

Mr. FOSTER. Very materially, sir. The soldiers were in line at that bank building for hours depositing their money, buying their Liberty bonds. The bank handled the Liberty bond sale, and I forget what we sold at Camp Funston, but it was enormous. The bank handled all of that. The bank furnished exchange for these men; they took care of their pay; their pay was deposited there, and I am sorry to say that a great many forgeries occurred, but the bank was of very great help to the camp.

Mr. CLARK. Is it being run now?

Mr. FOSTER. They have been put out, arbitrarily put out. They left the 1st of January.

Mr. O'CONNELL. They have 3,000 men there yet, I understand. Mr. MOONEY. Now, in regard to the question I asked Gen. Wood, I want to find out whether you agree with him. It would not be possible to operate those large concessions there at anything approximating a profit, would it?

Mr. FOSTER. Yes, sir; there are several of those concessions that were operating at a profit. Now, you must remember we have got in Camp Funston, in addition to the 3,000 soldiers, there are approximately 2,000 civilians who are being paid very well. All the camp facilities are run by civilians living near the camp. They live in the Army city adjacent to the camp and spend money on the zone. The theaters, all of them, could not run at this time, of course.

Mr. CLARK. Was that an original bank or a branch of some bank?

Mr. FOSTER. That was a branch of the National Reserve Bank of Kansas City.

Mr. CLARK. That is where the banker was killed, isn't it?

Mr. FOSTER. Yes; Mr. Winters.

Mr. EVANS. Not in this building?

Mr. FOSTER. That murder took place in a temporary building just to the rear of the bank, the first building in the block from the left.

Mr. CLARK. You stated it would take how much, in your opinion, to settle these claims?

Mr. FOSTER. I should think \$150,000.

Mr. CLARK. Have you got a copy of the contract?

Mr. FOSTER. Here is the copy that Mr. Strong had.

Mr. O'CONNELL. Might I ask, Mr. Chairman, that this contract be read into the record? Or let it be printed in the record.

The CHAIRMAN. Yes; without objection that may be done.

Mr. STRONG. Also I suggest the notice of dismissal.

The CHAIRMAN. There will be no objection to that going in.

Mr. CLARK. Have you the order of the War Department or a copy of it.

Mr. FOSTER. I have the order issued by the commanding general at Camp Funston; yes, sir.

The contract and the order referred to are as follows:

LEASE.

Lessor, George H. Imbrie, second Lieutenant, Infantry, United States National Army, contracting officer at Camp Funston, Kans., for and on behalf of the United States.

Lessees, J. L. Jacobson and C. Jacobson, of Kansas City, Mo.
Premises, booth in Arcade Building, zone of camp activities and amusements, Camp Funston, Kans., to be occupied by lessees for a cigar and tobacco concession.
Rental per month, 10 per cent of the gross receipts from all sales.

Date of lease, April 29, 1918; date effective, April 29, 1918; date expires, April 29, 1923.
The authority for this lease is contained in telegram dated September 28, 1917, to Maj. Gen. Leonard Wood, commanding general, Camp Funston, Kans., from Raymond B. Fosdick, chairman, commission on training camp activities; appointment authorized by Secretary of War, letter of September 7, 1917, from Adjutant General of the Army; approved telegram, October 13, 1917.

These articles of agreement, entered into this 29th day of April, 1918, between George H. Imbrie, second Lieutenant, Infantry, United States National Army, for and on behalf of the United States and of the department of camp activities and amusements at Camp Funston, Kans., of the first part (hereinafter designated the lessor), and J. L. Jacobson and C. Jacobson, of Kansas City, Mo., of the second part (hereinafter designated the lessees).

Witness, that the parties do hereby mutually covenant and agree to and with each other as follows:

1. That the said lessor shall, and by these presents does, lease, demise, and let to the said lessees for the term beginning with the 29th day of April, 1918, and ending with the 29th day of April, 1923, revocable on 10 days' written notice to the lessees, at the rate per month, and under the conditions named below, viz:

Site, consisting of a certain booth, 12 by 24 feet, numbered 100 and 101, in the building known as the "Arcade," on the zone of camp activities and amusements at Camp Funston, Kans.

In consideration whereof, the said lessees agree to pay their proportionate expense of the construction of said Arcade Building; also, for the privilege and license to conduct said business, 10 per cent of the gross receipts from all sales in said booth, all of which is to be under the conditions and agreements set out in a supplemental contract attached hereto and made a part hereof, as though set out at length.

2. That the lessees shall be responsible for all repairs, and shall not be permitted to make any changes or additions without the approval of the lessor, first had and obtained; and it is further understood that said Arcade Building is the exclusive property of the lessor. However, it is understood and agreed that fixtures inside that building for conducting said lessees' business are not to be considered a part of the building and may be removed.

3. That for and in consideration of the faithful performance of the stipulations of this agreement, the lessees shall pay to the lessor, or to whomsoever designated, the sum stated, and in the manner, and at the times stated in Article 1 hereto.

4. That no Member of or Delegate to Congress, or resident commissioner, or any person belonging to or employed in the military service of the United States, is or shall be admitted to any share or part of this contract, or to any benefit which may arise herefrom, but, under the provisions of section 116 of the act of Congress approved March 4, 1909 (35 Stat. L. 1909), this stipulation, so far as it relates to Members of or Delegates to Congress, or resident commissioners, shall not extend to any contract made with an incorporated company for its general benefit.

5. That the lessor reserves the right to cancel this lease and privilege at any time during the term of this agreement, giving, however, the lessees ten (10) days' notice, or time to comply with any requirements or orders issued by the War Department or the commanding general, or vacate said premises.

6. It is further mutually understood and agreed that this lease may be canceled and held for naught and a new lease executed between the parties hereto at any time within six months of the date hereof if unforeseen conditions arise not contemplated by the parties at this time.

7. It is further mutually understood and agreed that the lessees, their heirs, executors, administrators, successors, and assigns, shall have the right to sell and assign its, their, or his right, title, and interest in and to the within lease and privilege, subject, however, to the written consent of the lessor first had and obtained.

8. The said lessor agrees that, on the termination of this lease, the said lessees and their heirs, executors, administrators, successors, and assigns, shall have an option to the first consideration of a new lease and privilege for conducting a booth for the sale of tobacco and cigars on the premises herein described on such terms and conditions as may be then imposed by the said lessor.

9. Provided further, that the agreement hereinabove set out shall have no force or effect until these presents have been approved by the commanding general of Camp Funston, Kans.

In witness whereof, the parties aforesaid have hereunto placed their hands the date first hereinabove written.

Witnesses:

GEORGE C. BEAURY as to	GEORGE H. IMBRIE,
Second Lieutenant, Infantry, United States National Army.	
A. F. BIEKER as to	J. L. JACOBSON.
GEORGE C. BEAURY.	
GEORGE C. BEAURY.	O. JACOBSON.

Approved this _____ day of _____, 1918.

Major General, United States Army, Commanding Camp Funston, Kans.

SUPPLEMENTAL AGREEMENT.

Between George H. Imbrie, second Lieutenant, Infantry, United States National Army, contracting officer at Camp Funston, Kans., for and on behalf of the United States, and J. L. Jacobson and C. Jacobson, of Kansas City, Mo., for conducting a booth for the sale of tobacco and cigars in the arcade building on the zone of camp activities and amusements at Camp Funston, Kans.

Date of contract, April 29, 1918.

Date effective, April 29, 1918.

Date expires, April 29, 1923.

The authority for this contract is contained in telegram dated September 26, 1917, to Maj. Gen. Leonard Wood, commanding general Camp Funston, Kans., from Raymond B. Foedick, chairman, Commission on Training Camp Activities, appointment authorized by Secretary of War, letter of September 7, 1917, from Adjutant General of the Army; approved telegram October 13, 1917.

These articles of agreement, entered into this 29th day of April, 1918, between George H. Imbrie, second lieutenant, Infantry, United States National Army, for and on behalf of the United States and of the Department of Camp Activities and Amusements at Camp Funston, Kans., of the first part, and J. L. Jacobson and C. Jacobson, of Kansas City, Mo., of the second part.

Witnesseth, that whereas the parties hereto have this day and date entered into a lease for a certain booth in the arcade building on the zone of camp activities and amusements at Camp Funston, Kans.; and

Whereas said first party has constructed on the zone at Camp Funston, Kans., an arcade building for the purpose of housing a number of small concessions.

Now, therefore, the parties do hereby mutually covenant and agree to and with each other as follows:

1. That in consideration of the license and privilege hereby granted said parties of the second part agree to pay to the said party of the first part their proportionate share of the total cost of the construction of said arcade building, it being understood that said second parties' proportionate share of the cost is to be based and determined on the relation and ratio that the space required for the booths occupied by said second parties may bear to the entire size of said building and the cost thereof, which said amount second parties agree to pay to said first party as soon as said cost is determined. It is further understood that the building is the exclusive property of the first party.

2. Said second parties accept and agree to abide by the general supervision over said business of the commanding general, sanitary inspector, fire marshal, the department of camp activities and amusements, the advisory council of training camp activities and amusements, and the executive committee of the camp exchange council, or to whomsoever such authority is delegated, and to comply with all rules, orders, or recommendations issued concerning the operation of said business, and will comply with all requirements and orders of the military authorities which are now in force, or may hereafter be imposed for the safety and sanitation of Camp Funston.

3. The said second parties further agree to pay their proportionate share of the cost of the central heating and water system to be constructed by the party of the first part for heating the proposed zone of camp activities and amusements, which said amount is to be paid in installments as the work progresses, the amount of which, and the time of payment to be fixed by the first party, and the balance paid as soon as the work is completed.

4. The said second parties further agree to provide, and have worn, such clothing and uniforms by their employees as said first party may designate, except, however, employees who are in the service of the United States shall wear the uniform prescribed by the War Department.

5. The said second parties further agree to pay to the said first party, or to whomsoever designated, their proportionate share of heating the aforesaid building. Said proportionate share to be based on the relation and ratio that the heating space of their said booths may bear to the heating space required on all the buildings on the zone. Settlements to be made monthly.

6. Said parties of the second part further agree, that in consideration of the license and privilege hereby granted to conduct a booth for the sale of tobacco and cigars, to pay as a rental 10 per cent of the gross receipts from all sales during the term of this agreement.

7. Said second parties further agree to comply with all demands or regulations that the said party of the first part may make to determine the amount of said sales, and render such inventories and statements of the stock of goods on hand as will enable said first party to correctly check the sale of said goods.

8. It is further understood and agreed that the manner of conducting the said business must be entirely subject to the approval of said party of the first part, and that any infringements or violations of any rule or order issued will, in itself, work a forfeiture of this contract.

9. It is further understood and agreed that a settlement will be made between the parties hereto on each and every Monday after the business is commenced, at which time the said second parties will pay to said first party, or to whomsoever designated, the amount found to be due under this contract.

10. Said second parties further agree not to cash a check or checks for any person in the military service of the United States in or about their said place of business.

11. The said second parties further agree to execute and furnish to the said first party an acceptable surety company bond in the penal sum of _____, conditioned on the faithful performance by the said second parties of each and every covenant and obligation in this contract.

12. It is further mutually understood and agreed, that in case the terms of the above agreement are found to be inequitable after a period of six months the same may be readjusted on such terms as business conditions may warrant.

13. It is further mutually understood and agreed that the said second parties, their heirs, executors, administrators, successors and assigns, shall have the right to sell and assign their or his right, title and interest in and to the above contract, subject, however, to the written consent of the first party, first had and obtained.

14. It is further mutually understood and agreed, that the license and privilege hereby granted is revocable on 10 days' written notice to the said parties of the second part.

15. It is further mutually understood and agreed that the covenants and agreements hereinabove set out shall extend to, bind, and be obligatory on second parties' heirs, executors, administrators, successors and assigns.

16. All erasures, corrections and interlineations in the above and foregoing instrument were made prior to the time the same was signed by the parties hereto.

In witness whereof, the parties hereto have placed their hands, the day and date first above written.

GEO. W. IMBRIE,
Second Lieutenant Infantry, United States National Army.

Witnesses:

GEORGE C. BEAURY.

J. L. JACOBSON.

A. F. BIEKER.

GEORGE C. BEAURY.

C. JACOBSON.

A. F. BIEKER.

GEORGE C. BEAURY.

Approved this _____ day of _____, 1918.

Major General, United States Army, Commanding Camp Funston, Kans.
(Executed in triplicate.)

FORM OF ASSIGNMENT.

For value received, the undersigned have this _____ day of _____, 19____, sold and assigned all their right, title, and interest in and to the within lease and contract to _____ of _____, the same to be effective only on the approval of the party of the first part named therein.

Witnesses.

Approved and allowed this _____ day of _____, 19____.

I do solemnly swear that the foregoing is an exact copy of a lease and an exact copy of a contract made by me, personally, with J. L. Jacobson and C. Jacobson; that I made the same fairly, without any benefit or advantage to myself, or allowed any such benefit or advantage corruptly to the said above-named parties, or to any other person; and that the papers accompanying include all those relating to the said lease and contract, as required by the statute in such case made and provided.

Second Lieutenant, Infantry,
United States National Army.

Sworn to and subscribed before me this _____ day of _____, 1918.

HEADQUARTERS,
Camp Funston, Kans.

The action of Second Lieut. George M. Imbrie, Infantry, in entering into the foregoing agreement with J. L. Jacobson and C. Jacobson, of Kansas City, Mo., was pursuant to the authority contained in telegram from Adjutant General's Office, dated October 13, 1917, copy of which is attached hereto, and is approved.

LEONARD WOOD,
Major General, United States Army, Commanding.

HEADQUARTERS EIGHTY-NINTH DIVISION, NATIONAL ARMY,
OFFICE OF CHIEF OF STAFF,
Camp Funston, Kans., September 20, 1917.

Memorandum for Maj. E. H. Abadie, R. O. E. C.

Subject: Zone of camp activities, authorizations for construction of buildings.

1. The commanding general has made plans for the establishment of a zone of camp activities and amusements, centrally located on a proposed avenue of 2,200 feet on the north side of parade ground, east and west of the fire break, as shown upon blue prints herewith. The Y. M. C. A. auditorium and the Knights of Columbus assembly hall are already under construction on this avenue, east of the central fire break. The library, to be built by the American Library Association, and the theater to be provided by the War Department Commission on Camp Activities (mentioned in letter of Sept. 12 from Cantonment Division), will be located adjacent to and upon the same line with the Y. M. C. A. building and Knights of Columbus assembly hall. In this same line it is proposed to put in a swimming pool.

2. The proposed avenue will extend west of the central fire break for a distance of 1,100 feet. Here it is proposed to locate various concessions, among them a vaudeville theater, a stock company theater, motion picture theater, skating rink, newspaper building, restaurant, shooting galleries, lunch rooms, express office, branch of the post office, telegraph office, telephone exchange, photo studio, bowling, billiard and pool rooms, barber shop, branch bank, etc. In every instance all of these structures will be erected by individual concessionaires at absolutely no cost to the Government, and tentative agreements entered into provide for the payment, by the concessionaires, to the Division Exchange, of a percentage of the gross receipts for the benefit of the men of the command. In view of the fact that this Division will comprise a city of between 50,000 and 60,000 men, the absolute necessity for a zone of camp activities and amusements, in order to provide entertainment for the men within the cantonment itself, is believed to be perfectly obvious. It appears to be necessary, however, in order to confirm the tentative agreements entered into with the concessionaires, to obtain the authority of the Secretary of War in the form of an authorization to the commanding general, to permit him to give permission to the concessionaires for the erection of the necessary temporary structures to be put up, as said before, at absolutely no cost to the Government. In every case, the agreements contained the necessary qualifying clauses exempting the Government from all claims entered by the concessionaires for the ownership of any structures put up on the Government reservation, the necessary provisions in all structures to agree with proper fire regulations, etc. The rear line of this zone is already fixed by the Y. M. C. A. auditorium and the assembly hall of the Knights of Columbus, and provides a space in excess of 100 feet between them and the latrines of the officers' quarters. The other structures proposed will be held to the same distance.

3. It is impossible to state specifically all the structures which may be put up and general authority is therefore requested enabling the commanding general to permit the erection of such buildings as may be agreed upon with individual concessionaires. It is necessary that this authority be granted as soon as practicable in order that the work may be carried forward and completed before winter sets in, and authority is more important in order that amusement and entertainment under proper supervision, may be provided for the 50,000 men of this command as soon as practicable.

4. In addition to the institutions mentioned in the preceding paragraphs, the commanding general plans to establish departments of the division exchange on this avenue for the sale of innumerable things to the enlisted men which can not be carried in the small regimental exchanges. In fact, these will constitute practically a department store, divided into booths, located on the zone for the convenience of the men. It is proposed to ask concessionaires to set aside these booths in any of the buildings they erect for this purpose and to defray the cost of erection of other booths from

division exchange funds so that this feature of the division exchange will entail no cost to the Government.

5. *Post exchange proper.*—Provisions for buildings made for the division exchange proper and the regimental exchanges are wholly inadequate to the tremendous needs of a city inhabited by between 50,000 and 60,000 men. It is physically impossible to carry more than a week's supply of the most ordinary articles in the regimental exchanges, such articles, for example, as cigars and tobaccos and various other little necessities which soldiers demand in addition a lunch room. It is therefore necessary to establish and operate a division exchange, somewhat in the nature really of a department store, where a large supply of all manner of things may be sold to the men. The proposed division exchange departments on the zone in part supply this need. However, in order that that purchases may be made in large wholesale lots, to take advantage of prices to be obtained, and in order a supply for as short a period as one or two months may be kept on hand to stock up the regimental exchanges, a large warehouse, located on the railroad, is an absolute necessity. In order to carry on the administration of a business as huge as a properly operated division exchange will mean, it is necessary for the division exchange officer to employ a large office force. Office room for the division exchange officer and his staff is therefore absolutely necessary. This may be included in the proposed warehouse. It is believed that this structure should be provided by the Government, and it is requested that the matter be taken up with the Cantonment Division for immediate consideration and that telegraphic notice of action be sent to the commanding general without delay.

C. E. KILBOURNE,
Lieutenant Colonel, Field Artillery, National Army,
Chief of Staff.

[True copy of Western Union telegram.]

79K S D 44 Govt.

DI WASHINGTON, D. C. 110p.,
October 13, 1917.

COMMANDING GENERAL EIGHTY-NINTH DIVISION,

Camp Funston, Kans.

Reference memorandum September 20, 1917, addressed to Maj. E. H. Abadie, Reserve Officers Engineer Corps, requests for the establishment of a zone of camp activities and the installation of concessions therein is approved.

McCAIN.
1.05 p. m.

HEADQUARTERS,
Camp Funston, Kans., December 11, 1919.

To the FUNSTON BOTTLING CO.,
Army City, Kans.

You are hereby notified that the lease and privilege granted by an agreement and supplemental agreement dated October 16, 1917, between James W. Bell, second lieutenant, Quartermasters Corps, National Army, for and on behalf of the United States and of the department of camp activities and amusements at Camp Funston, Kans., and the Funston Bottling Co. of Army City, Kans., for lot number 34, in block No. 3, zone of camp activities and amusements, Camp Funston, Kans., and the license to conduct a soda water bottling plant thereon granted by said agreements, are revoked and canceled.

You are also hereby notified to vacate the said premises within 10 days after the receipt of this notice.

E. F. MCGLACHLIN, Jr.,
Major General, United States Army, Camp Commander.

Mr. FOSTER. Now, for your information I can tell you I have been in Camp Funston in the last 10 days. Gen. McGlachlin asked me about the things I have been telling you and asked me if I thought these contracts could be legally canceled, and I told him no, under the instructions that we gave out to these concessionaires, that I did not so consider it. He asked me then if we could separate these contracts, stating that he would like to see the bank and the theaters compensated, but did not think that anyone else should have any

money. I told him I didn't see how they could be separated; every contract was drawn with the same agreement, every concessionaire went in on the same agreement. His judge advocate was there, Maj. Stettinius, since discharged from the service in the last few days, and told me that he had notified Gen. McGlachlin that the contracts could be legally terminated, but after I talked to Maj. Stettinius he seemed to change his mind about it being proper to cancel them, and I am quite sure that Gen. McGlachlin, acting under a War Department general order issued recently, in which, if I could remember properly, it states that wherever it can be done legally, all civilians operating in cantonments should be put out of the camps. I think that is the order on which Gen. McGlachlin has canceled these leases and contracts.

Mr. O'CONNELL. Major, did all the concessionaires receive notice to leave?

Mr. FOSTER. Yes, sir.

Mr. CLARK. Just a moment, there, Major, the contract provides that it can be revoked on 10 days notice.

Mr. FOSTER. Yes, sir. You see that contract had to be drawn that way, with that clause in it, because they were building buildings on the Government reservation, and that is the law.

Mr. CLARK. I want to ask you just one other question. I see the contract provides that they are to pay 10 per cent of the gross receipts, etc. Who was that paid to?

Mr. FOSTER. That was paid to the department of camp activities and amusements and put into the camp exchange fund. After we had collected \$79,000 from these concessionaires we waived that percentage—you see the contract goes on further and states that it can be changed—because we did not need the money for the soldiers; we had the branch exchanges; we had 17 stores in the camp, one with each unit; each regiment had their own exchange, and we did not need that money, so we stopped collecting this percentage and at the same time compelled the concessionaire to reduce his prices to the soldiers accordingly. In other words, we cut down on the amount we allowed them to charge.

Mr. CLARK. On all of them?

Mr. FOSTER. Yes, sir.

Mr. CLARK. Then you got about \$79,000 all told from that?

Mr. FOSTER. Yes, sir; and that is lying at Camp Funston now. There was \$240,000 in the treasury when I was there in March.

Mr. CLARK. Who does that belong to?

Mr. FOSTER. It belongs to the camp exchange, and a general order was issued in February, I believe, 1919, requesting that this money be returned to the Treasury Department, that any money left over in camp exchange funds be returned to the United States Treasury.

Mr. CLARK. Has that been done? Has it been turned over to the Treasury?

Mr. FOSTER. I think not, sir.

Mr. CLARK. It is still there?

Mr. FOSTER. I know that the last inspector general out there who talked to me said he was going to recommend it as soon as he got back to Washington, but it is my understanding in talking to my successor that they still have that money in Camp Funston.

Mr. REED of West Virginia. What I am not clear about is how you finally disposed of that heating plant which you say you built on borrowed money from the bank.

Mr. FOSTER. Each concessionaire was assessed according to the cubical contents of his building, and he paid his pro rata share of the \$105,000.

Mr. REED of West Virginia. That was paid off right away?

Mr. FOSTER. That was paid off, and I paid the bank off. In fact, I bonded these men as soon as I entered into a contract, to insure that we would get this money back.

Mr. REED of West Virginia. Then everybody has got a certain equity in that heating plant?

Mr. FOSTER. They own that heating plant.

Mr. REED of West Virginia. It is not a single unit to anybody?

Mr. FOSTER. No, sir; it could not be so. And I put in my own water-works system. At the time the zone was built the water had failed at Camp Funston. The night of this murder I was in the power plant nursing the boilers, because we had no water in the entire camp. That was not generally known, but it was a fact. So I had to drill my own well and put in my own water-works system in this zone. The concessionaires paid for that also. There is a first-rate water plant with wells drilled on the zone now.

Mr. CLARK. Will you explain this clause in the contract—I am trying to get all the information I can—I think Gen. Wood stated that the contract was to be vacated only on account of military necessity, or something of that sort; now here is a clause, section 5: "The lessor"—the United States, of course—"reserves the right to cancel this lease and privilege at any time during the term of this agreement, giving, however, the lessees 10 days' notice or time to comply with any requirements or orders issued by the War Department or the commanding general, to vacate said premises."

Now it seems that under that they had the power to just arbitrarily vacate it without any particular reason. Is that your understanding?

Mr. FOSTER. Yes, sir; when the judge advocate of the camp passed on this contract he explained to me that any contract to build a building on Government property must be unilateral. In other words, he said it was an autocratic contract; that the Government had all the power and the man who built the building had none, and there was only one way to account for that and that was to accept it and depend upon receiving proper treatment, that no contract would be drawn on a Government reservation unless it gave the Government all of those powers, and he advised me not to put in any qualifying statements in regard to the cancellation.

Mr. EVANS. Major, I would like to ask you with reference to a portion of your statement. If I understand you, the general in command has received an order from the department directing him to cancel all contracts which permit civilians upon a reservation, where he can do so legally. In your opinion, having investigated the matter with the information received from the judge advocate, do you understand that that general order, without any specific order from the War Department would give him authority to, because he wanted to, dismiss one of these men or forfeit one of these contracts; or must he have his authority from the source, the War Department?

Mr. FOSTER. I think, sir, he should have had his authority direct from the War Department.

Mr. EVANS. I don't mean morally; I mean legally.

Mr. FOSTER. Legally. And I can explain that in this manner: Camp Funston and the zone at Camp Funston is a precedent in the United States Army. There is no other camp in the United States that had such a thing as a zone. The only one in the United States that anywhere approached it was an attempt to do so at American Lake, Wash., and they only built a theater. But this is a precedent, this zone; it was never done before and it was not repeated. They sent out from the War Department a number of committees to investigate this with an idea of duplicating it, but it was not done, so this authority from the War Department allowing the zone to be built was a precedent. It was never done before and it has not been done since, and it should have had special treatment in regard to cancellation of contracts, instead of acting upon a general order which states that these civilians should not be allowed to operate in camps. In other words, it puts this zone that cost \$1,000,000 and more on the same basis as some man who might have had a tent in a camp and was selling pies or something of that kind.

Mr. EVANS. I haven't made myself clear, I think. What I wish to get is this: Does the general in command of Funston or any other camp, irrespective of any direction from the War Department, have the authority legally to eject therefrom a civilian who has a contract with the Government permitting him to remain there, without having a good reason under some previous order issued by the War Department? In other words, must there be an order from the War Department, where there has been no violation of the contract, to authorize the general to eject the civilian lawfully there?

Mr. FOSTER. Yes, sir.

The CHAIRMAN. I will have to leave now, and I will ask Mr. Reed to take the chair.

Mr. EVANS. Now, I am not sure whether I got your answer.

Mr. FOSTER. Yes, sir; he should have a specific order from the War Department. He had no authority to cancel that contract under the conditions.

Mr. EVANS. The next question is, If no legal cause for canceling that contract existed, it is canceled unlawfully? That is your theory?

Mr. FOSTER. Yes, sir.

Mr. EVANS. That being true, have you investigated to know what a remedy would be or if there is any remedy wholly within the War Department? Or, in other words, can't that contract be reinstated?

Mr. FOSTER. Yes, sir; that could be reinstated.

Mr. EVANS. That is, if the particular person involved, Mr. Jenks, taking his case—which I take it is one that we have all had in mind—if he makes the application, there is no reason why the War Department should not reinstate him—that is, no legal reason or no moral reason?

Mr. FOSTER. None that I know of, sir.

Mr. KLECZKA. I notice you admitted, and Mr. Clark read here the clause which provides for cancellation without cause. There need not be any cause whatever.

Mr. EVANS. That is the War Department—this contract, if I understand it—and I think the major has that in mind—this contract

is not between the general, but is between the War Department or the United States and Mr. Jenks.

Mr. FOSTER. Between the United States and Mr. Jenks.

Mr. EVANS. And the officer, by virtue of being a general in the Army, has no legal authority to represent the United States in the matter of canceling a contract where there is no legal cause for it?

Mr. FOSTER. Yes, sir.

Mr. EVANS. That is the point I am trying to get here; and Mr. Jenks could now, if he makes a proper showing to the War Department, if the War Department would use him legally and fairly, he could secure reinstatement of that contract.

Mr. FOSTER. Yes, sir.

Mr. EVANS. You have had what experience as an architect and builder?

Mr. FOSTER. I have been an architect about twenty years.

Mr. EVANS. And engaged actively in the business?

Mr. FOSTER. Yes, sir.

Mr. EVANS. And consequently you are acquainted with the prices and so forth of constructing buildings such as these in that community at that place?

Mr. FOSTER. Yes, sir.

Mr. EVANS. You also have personal charge of the building of these buildings as supervising the construction?

Mr. FOSTER. Yes, sir.

Mr. EVANS. Therefore, you have in your possession, or under your control the actual costs of these buildings and the amount these men were paid?

Mr. FOSTER. My records left in the department at Camp Funston contain all of that complete.

Mr. EVANS. Now, is it possible for you to tell us how to secure a copy of that, so that it might be incorporated in this hearing?

Mr. FOSTER. Well, the only way to secure that—

Mr. EVANS (interposing). Through the War Department?

Mr. FOSTER. From the commanding general at Camp Funston. I don't suppose those records are on file in the War Department at Washington.

Mr. EVANS. An order from the Secretary of War to him would furnish copies, would it not?

Mr. FOSTER. Yes, sir.

Mr. EVANS. Mr. Chairman, I suggest that the chairman of the committee request a copy of the papers that would have that information, so that we can have it for our information.

Mr. STRONG. Mr. Chairman, as I understand this bill, it is simply to give the War Department authority to investigate and make settlement of these claims, and that information would not help us in passing upon this bill. It would be information to go to the War Department in making the claim; it would make our report rather voluminous.

Mr. O'CONNELL. Is it not a fact, Mr. Strong, that this bill was drawn under direction of the Secretary of War after consultation?

Mr. STRONG. Yes, sir—that is, I can only state that Senator Curtis gave me a copy of the body of it and said it was prepared at the suggestion of Secretary of War Baker, and had been submitted to him before it was delivered to me.

Mr. EVANS. Well, Mr. Strong, I will tell you, if I may be excused, what I have in mind. It will show what these particular men made, and if some of them have received ample funds so that there is no loss whatever, my thought was to avoid any investigation along those lines. That is what I had in mind. If the committee wishes to throw it to the War Department, it doesn't make any difference to me.

Mr. STRONG. The War Department, having that very information, probably would not make any investigation of a claim in which there was no moral obligation. I might say, further, that as I understand it these claims have been taken up with the Adjutant General's Office, or with some department of the War Department, and the suggestion was made to Congressman Anthony that if they would file an itemized statement of the cost of their buildings, their receipts, and their losses, that they thought they could adjust it themselves without any other procedure, but Secretary Baker thought he would rather have the authority to make a complete investigation of the matter through his office, and that was the reason he suggested the introduction of this bill.

Mr. WILSON. Mr. Strong, just one question—it was not your intention in this bill to give every concessionaire in Camp Funston, or whatever it is called, the right to bring his action and maintain his action and to recover what he was equitably entitled to recover in the Court of Claims?

Mr. STRONG. No, it was not, because a good many of them are making no claim.

Mr. WILSON. That was not your intention, but doesn't your bill do that? Doesn't it give every concessionaire the right to sue?

Mr. EVANS. It does.

Mr. STRONG. Yes; but then if he has no claim, he would not sue.

Mr. WILSON. Why was it put that way?

Mr. O'CONNELL. This open invitation would tend to suggest a suit.

Mr. WILSON. On the face of that bill it only looks that those that were dissatisfied with the award, some award that the Secretary of War made to the concessionaire, he could then get 75 per cent of that and could sue to recover the balance.

Mr. STRONG. Yes.

Mr. WILSON. But that would apply just the same to the concessionaires that made a demand to the Secretary of War and did not get anything. He would have the right then to sue for the entire balance; so this bill is in effect giving every concessionaire the right to bring his suit in the Court of Claims.

Mr. STRONG. I don't suppose a man would bring a suit if he had no claim.

Mr. EVANS. Well, I don't want to agree with you on that.

Mr. STRONG. If he did, he would not secure anything if he is not entitled to it under the law. He would but have the cost to pay.

Mr. WILSON. It is not what he can recover under the law, but what he ought to have.

Mr. STRONG. He can only recover what he ought to have.

Mr. WILSON. There is equity there.

Mr. STRONG. That is what he ought to have, his equity.

Mr. EVANS. Now, I notice that you corrected one of the statements of Gen. Wood as to the life of these buildings, making it in your

estimation 50 years; now, do you mean that those buildings as constructed will stand 50 years without outside repairs? By that I mean outside protection.

Mr. FOSTER. No, I didn't mean that. I meant that those buildings were built so that—just as any other building, a residence, would be built—so that they could be kept up and would last for 50 years, but it naturally necessitates certain repairs and upkeep on the building.

Mr. EVANS. What would be the percentage of the original cost that would be necessary to keep up the repairs under ordinary conditions?

Mr. FOSTER. Well, on buildings of that type I should think about 3 per cent a year would be necessary for upkeep.

Mr. EVANS. That is on the average. Of course for the first few years there would be none, or practically none.

Mr. FOSTER. Yes, sir.

Mr. EVANS. With reference to this matter of waiver of contribution of a certain percentage of the receipts, if I understood you, there really wasn't any waiver that had any advantage to the concessionaire.

Mr. FOSTER. No, sir.

Mr. EVANS. You intended to, and probably did reduce the price which they were permitted to charge, so as to take out of their income all that the percentage that they paid to the camp fund amounted to?

Mr. FOSTER. That was the intent.

Mr. EVANS. I think that is all I have.

Mr. CLARK. Major, I just want to call your attention to one or two things in the contract. This contract is made between George H. Imbree, second lieutenant, United States National Army, contracting officer at Camp Funston, Kans., for and on behalf of the United States. Now I find a note here to this effect:

The action of Second Lieut. George H. Imbree, Infantry, in entering into the foregoing agreement with J. L. Jacobson and C. Jacobson of Kansas City, Mo., was pursuant to the authority contained in a telegram from A. G. Olds, dated October 13, 1917, copy of which is attached thereto and is approved. Leonard Wood, Major General commanding.

Then I want to call your attention that there appears to be two contracts, one contract and then a supplementary contract. When the original contract is settled between those parties there is a statement to this effect in this section:

Said lessor shall, and by these presents does, lease, demise, and let to the said lessees for the term beginning the 29th day of April, 1918, ending with the 29th day of April, 1923, revocable on 10 days' written notice to the lessee, and so forth.

Now, in section 5 there is another provision that "the lessor reserves the right"—the lessor, of course, is the United States—"reserves the right to cancel this lease and privileges at any time during the term of this agreement, giving, however, the lessee 10 days' notice, or time to comply with any requirements or orders issued by the War Department or the commanding general, or vacate said premises." Now, then, in the supplementary contract there is this provision in 14:

It is further mutually understood and agreed that the license and privilege hereby granted is revocable on 10 days written notice to the said parties of the second part.

Now, that contract having to be approved by the commanding general and the second lieutenant acting for the commanding general, how do you get it that the commanding general representing the United States—he is the highest officer at that camp—that he would not have authority under the contract to revoke it on 10 days' notice?

Mr. FOSTER. The second lieutenant, George H. Imbree, designated the officer to contract for the Government, is required by Army regulations to do the work, and he is not necessarily representing the commanding general at Camp Funston but he is representing the United States Government in this contract.

Mr. CLARK. Under the major general, though, isn't he?

Mr. FOSTER. Yes, sir.

Mr. CLARK. And the major general had to approve the contract?

Mr. FOSTER. Yes, sir.

Mr. CLARK. He did approve it, and he being the highest official having anything to do with this arrangement—

Mr. FOSTER (interposing). No, the highest official having to do with this arrangement, are the orders of the War Department allowing this cantonment to be built, and in which it was set forth in full what was proposed to be done, a letter to Maj. Abadie of the construction division, I believe, setting forth in full what was to be done. Then the War Department authorized the construction of the cantonment and the drawing of the contract.

Mr. CLARK. There is simply a memorandum here addressed to Maj. Abadie by the lieutenant colonel, Chief of Staff Kilbourne, in which he simply acquaints him with what is to be done there.

Mr. FOSTER. And that was approved by the War Department itself. My statement, of course, is only my judgment, sir, as to the commanding general having the right to arbitrarily cancel this contract under all the agreements that were entered into between the then commanding general and the concessionaire.

Mr. CLARK. But the contract does provide for the arbitrary revocation of the contract at the pleasure of the lessor.

Mr. FOSTER. As I told you before, the judge advocate, in explaining this contract both to me and at times explaining it to the concessionaire, explained that the contract was a complete one-sided contract, but that that was the way it would have to be made.

Mr. CLARK. Are you a lawyer?

Mr. FOSTER. No, sir.

Mr. CLARK. You know lawyers all know that there is a rule of law that no contemporaneous agreement can ever be admitted to vary the terms of a valid written instrument. Now, it is presumed that everything was set out in that written contract. Now, of course, in a court of law these conversations that you have had could not be admitted.

Mr. FOSTER. I have gone on the basis also that there is some principle in law that governs equity, and that is what I put up to these concessionaires, that while the contract itself was such, that owing to the fact that these buildings were being built on a Government reservation it must be made an arbitrary contract, and all the rights that rest in the Government to revoke it; yet there was equity there that would be protected, even though the contract was drawn one-sided.

Mr. REED of New York. I want to ask you a question, Major. All the testimony that has been brought out here so far shows that this zone proposition was necessary in order to keep up the morale and throw proper protection around the soldiers. Now, then, you started to tell us the difficulty you are having with the banks, that is, that the concessionaires could not get this money from the banks under this former contract, and then there was some interruption, or else

I was not here to get it—how did you finally get those banks to make the loans making possible the construction of these buildings?

Mr. FOSTER. By explaining to them that just such a thing as has happened would not happen.

Mr. REED of New York. That is what I want to bring out.

Mr. FOSTER. And assuring them of that.

Mr. CLARK. I just want to ask you this. Of course the time that the war would last was entirely problematical. They knew when they went into it that it was liable to be over in a month, or was liable to last 10 years, and of course they took that risk. Now, wherein do you believe that equity demands that the Government should make people whole who took the risk of a venture of that kind?

Mr. FOSTER. They took the risk with their eyes wide open on the term that they might be able to operate there, but they were also assured by me that they would have an opportunity to operate there for years during good behavior on their part, and they based their investment upon that. For instance, I told them that the matter of demobilization, if the war should go on for several years, it would be four or five years; demobilization at Camp Funston alone would probably take a year. Those were all possibilities, and the only thing in the world that I see in this whole proposition is the cancellation of these leases. If the commanding general at Camp Funston can put these concessionaires off the reservation, I would say they had no claim in the world except a moral claim.

Mr. CLARK. Was there any order of any kind from the War Department to the major general, the general in command of Funston, to put them off?

Mr. FOSTER. I have seen a general order to all cantonment commanders, as I explained before, to cancel and get rid of these concessionaires, where it could be done legally. I have seen such an order.

Mr. CLARK. You know of no special order to this particular general?

Mr. FOSTER. No, sir; there was no special order covering Camp Funston, which is an individual case. It doesn't apply to other cantonments, as I understand it.

Mr. STRONG. Mr. Foster, isn't it also true that at that time most of the military authorities were claiming that the war would go on for several years? Wasn't that the understanding at that time?

Mr. FOSTER. Yes; we all thought that, sir. We all thought the war would last at least five years. In fact, I could have saved a lot of money if I had thought differently, in my business.

Mr. WILSON. One concrete claim here is the Jenks claim, the theaters.

Mr. FOSTER. Yes, sir.

Mr. WILSON. If Mr. Jenks's contracts were extended by the War Department, could he now operate his theaters at a profit?

Mr. FOSTER. Not right at this time, I should not think he could; no, sir. He might operate one of them. He has three theaters there.

Mr. WILSON. Is there anything to indicate that he would likely operate it at a profit during the balance of his term of five years?

Mr. FOSTER. I think so; yes, sir.

Mr. MOONEY. When was the contract entered into?

Mr. FOSTER. These contracts run all the way from October, 1917, up to in the spring of 1918. They are all dated different dates.

Mr. MOONEY. They would run about two and a quarter years now?

Mr. FOSTER. Yes, sir.

Mr. STRONG. Major, you stated that you had been in Camp Funston recently. I think you ought to inform the committee as to what use the Government is making of any of these buildings, or preparing to make of them now.

Mr. FOSTER. The Government is using block 4 in this picture; that is the last block to the left, the small end of the perspective. They have taken the large restaurant that cost to build probably \$18,000 to \$20,000, and are operating that as a post exchange restaurant. They are operating the barber shop, and they expect to operate at least one theater. However, the camp exchange officer at Funston at this time is not occupying the theater, for the reason, as expressed to me, that he did not want to complicate matters on these cantonment buildings, but they do want to occupy the greater portion of the zone and they are occupying the power plant, using it and practically one block of the zone at this time.

Mr. STRONG. Major, isn't it true that the Government has arranged to buy part of the equipment in these buildings?

Mr. FOSTER. The Government bought the barber chairs in the barber shop; the Government bought one complete restaurant outright; they bought one complete set of pool tables, about 10 pool tables—by the way, they are operating the pool room too. I forgot to say that, and the camp utilities office told me in Funston not long ago that they had bought a certain amount of the opera chairs out of the theaters.

Mr. CLARK. Have the others moved their property out of these buildings?

Mr. FOSTER. They are most all getting out. The weather was very cold at the time this order came, and Gen. McLaughlin gave some of them permission to wait a little longer before moving out. But I think now practically all of them have moved their movable fixtures off the reservation, practically all of them. He insisted on them complying with this order and getting out.

Mr. MOONEY. The purpose of this bill is to give the Secretary of War the right to go into it.

Mr. STRONG. Yes; and make such settlement as he thinks best.

Mr. KLECZKA. You stated that you thought if it were not for the fact that this cancellation order was issued, they would not have any right to relief.

Mr. FOSTER. Any legal right.

Mr. KLECZKA. Well, how about this clause:

The lessor reserves the right to cancel this lease and privilege at any time during the term of this agreement, giving, however, the lessees 10 days' notice, or time to comply with any requirements or orders issued by the War Department or the commanding general, or vacate said premises.

Mr. FOSTER. That clause was put in there and to my mind makes plain what our intention was when this contract was drawn. It was put in there giving the Government the absolute right to cancel for any reason. We were at war and we did not want anybody on the reservation that we could not get rid of immediately if cause came about. The 10 days' clause was put in there so in case a man should commit an act that the commanding general would consider

he should be put off the reservation-for, but would correct that act within that 10 days, he could go ahead with his work.

The whole thing in this contract gets down to this: That we, as Government officers, in good faith with the concessionaire, interpreted the contract to the concessionaire and assured him that the very thing that has happened—that his lease would be canceled without cause—would not happen. We all of us told him that, from Gen. Wood down. We all told him that their interests would be protected, and when we were cleaning up Camp Funston prior to Gen. Wood's leaving and my discharge from the Army, these contracts were gone over carefully by the general at the time, stating that we never knew what might happen in the future; that somebody else might come in who might not understand these things, and to get these contracts all in good shape in the hands of the concessionaires so they would have them. We talked that over many times, and it was agreed that the concessionaire would be allowed to operate as long as he saw fit to during the term of his contract.

Mr. KLECZKA. Of course you admit, under the strict interpretation of that paragraph of the contract, the commanding general or the War Department, or the party to the contract, had the right to cancel the contract without notice and without cause?

Mr. FOSTER. Yes, sir; the only criticism I see on that contract, which I heard from other officers in the Adjutant General's Department, was the putting of the 10 days' clause in it; that it should have been arbitrary any time; that the 10-day clause was superfluous.

Mr. EVANS. Major, you have answered Mr. Klecza's question just a little bit differently from what you answered mine—I probably put it in a different way—that is this: You say "on the order of the Government or the commanding general." Now, could the commanding general without any reason whatever, properly under any regulation of the War Department or act of Congress that you know anything about, cancel that lease so as to make the cancellation good, so that it can not be reinstated as a matter of right if taken to the department?

Mr. FOSTER. Not in my opinion.

Mr. KLECZKA. Why not?

Mr. STRONG. Let me suggest to the gentleman that Mr. Foster is not a lawyer.

Mr. KLECZKA. I want to get his view, his interpretation.

Mr. FOSTER. I think I can explain all of that very quickly.

We drew a contract, a one-sided contract that no business man or firm or bank would advance money on unless he had some understanding as to how that contract should operate. We were instructed that this contract had to be drawn absolutely tight on the part of the Government, so that it could be revoked at any time.

Then these gentlemen came in for an interpretation of the meaning of this contract, and the officers in the Army told them of the interpretation—I mean interpreted it for them and told them it was necessary in building any building on a Government reservation to have that revocable clause in it; but we told them we had never heard of a contract being canceled of that kind without cause or without compensation.

Mr. CLARK. Major, isn't this a fact, that these gentlemen are legally, under strict rules of law, without a leg to stand on? If they did have, they wouldn't be here, but they are here appealing to the conscience of Congress to exercise its view of equitable rights and give them relief. Now that is the whole story, isn't it?

Mr. FOSTER. Well, I wouldn't be able to answer that question, sir, about the legality of it. I don't know enough about the law to state. I know that in all fairness and equity—I may have the wrong interpretation of the word "equity," but I do know they were not treated as we promised to treat them.

Mr. STRONG. Mr. Foster, did you have any personal interest in these contracts or buildings of any kind yourself?

Mr. FOSTER. No, sir.

Mr. STRONG. And you have not now?

Mr. FOSTER. No, sir.

Mr. STRONG. Or these claims?

Mr. FOSTER. No, sir.

Mr. STRONG. That is what I understood.

Mr. EVANS. Another question that was suggested to me by a statement which you made a moment ago, the statement of cost of these structures which is on file at Camp Funston, does it include the cost of this personal property or the fixtures which are conceded to be the property of the lessees? Does your estimate, or rather your cost statement, include the cost completed ready to operate?

Mr. FOSTER. I would like to correct that statement I made awhile ago. I don't believe that they have on file at Funston a complete cost record of all of these buildings. We have a complete cost record of the heating plant, the plumbing, electric wiring, and water system, but each building was built by the concessionaire, he furnishing his own contractor, and that was a thing that the Government had at that time no interest in, as to the cost of the building, and I don't believe that that department has an accurate record of the cost of the construction of these buildings, except as has been turned in by the concessionaire himself, as it was of no interest to us to keep a record of what his building cost. We only supervised the work and saw that he built it according to the plans that the department drew.

Mr. EVANS. Will there be any further evidence offered on behalf of these concessionaires?

Mr. STRONG. No; it was not the intention to have the concessionaires present their claims here. This bill gives authority to the Secretary of War to make settlement, and I do not see why we should go into a detailed examination of the claims if we give authority to the War Department to do it.

(Whereupon, at 11.15 o'clock a. m., the committee adjourned.)

MSK # 21934

**END OF
TITLE**